

Message Text

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ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 CIAE-00 PM-05 INR-07 L-03
ACDA-07 NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06
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R 041600Z AUG 77

FM USMISSION NATO

TO SECSTATE WASHDC 5247

INFO AMEMBASSY BONN

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C O N F I D E N T I A L SECTION 01 OF 02 NATO 07527

E.O.11652: GDS

TAGS: NATO, PFOR, LOS, GW

SUBJECT: FRG PAPER ON USE OF TERM "PEACEFUL PURPOSES" IN
LOS NEGOTIATIONS

1. THERE FOLLOWS THE TEXT OF A PAPER, CIRCULATED TO POLADS
BY THE FRG, ON USE OF THE TERM "PEACEFUL PURPOSES" IN THE
INFORMAL COMPOSIT NEGOTIATING TEXT. NOTING THAT THE TERM
"PEACEFUL PURPOSES" IS NOT CLEARLY DEFINED, AND THAT THERE
COULD BE ATTEMPTS AT INTERPRETATION COUNTER TO WESTERN
INTERESTS AT THE 7TH SESSION, THE FRG PAPER REQUESTS ALLIED
VIEWS ON THE INTERPRETATION OF "PEACEFUL PURPOSES" AND ON
THE POSSIBILITY THAT THE TERM COULD LEAD TO RESTRICTION OF
MILITARY ACTIVITIES AT SEA.

2. ACTION REQUESTED: GUIDANCE.

3. BEGIN TEXT:

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SUBJECT: THIRD UNITED NATIONS CONFERENCE ON THE LAW OF

- THE SEA - THE TERM "PEACEFUL PURPOSES" IN THE

- NEW NEGOTIATING TEXT -

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1. THE TERM "PEACEFUL PURPOSES" IS CONTAINED IN ARTICLE
88 (USES OF THE HIGH SEAS) AND BY REFERENCE TO THIS ARTICLE
IN ARTICLE 58, PARA 2 ALSO WITH REGARD TO THE USE OF THE
EXCLUSIVE ECONOMIC ZONE, IN ARTICLES 141, 143 AND 147
(ACTIVITIES ON AND BELOW THE SEA BED OUTSIDE NATIONAL
JURISDICTION) AS WELL AS IN ARTICLES 241 AND 247 (MARINE

SCIENTIFIC RESEARCH) OF THE INFORMAL COMPOSITE NEGOTIATING TEXT (ICNT) OF 15 JULY 1977. IT WAS ALREADY CONTAINED IN CORRESPONDING PASSAGES OF PREVIOUS DRAFTS OF THIS TEXT, WITH ONE EXCEPTION: THE ICNT CONTAINS FOR THE FIRST TIME THE TERM "PEACEFUL PURPOSES" IN THE KEY DEFINITION OF THE REGIME OF MARINE SCIENTIFIC RESEARCH (ARTICLE 247).

2. BECAUSE OF THIS UPGRADING OF THE TERM "PEACEFUL PURPOSES" IT IS PROBABLE THAT THE TERM AND THE ASSOCIATED SUBJECT OF MILITARY USES OF THE SEAS WILL AGAIN BE DISCUSSED AT THE 7TH SESSION OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA IN GENEVA FROM 18 MARCH TO 19 MAY 1978.

3. UNDER A MANDATE OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS AND AT THE SUGGESTION OF THE CHAIRMAN OF THE CONFERENCE THE TERM "PEACEFUL PURPOSES" AND THE MILITARY USES OF THE SEAS WERE DISCUSSED AT THE 4TH SESSION (15 MARCH TO 7 MAY 1976) (VIDE OFFICIAL RECORDS, THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, VOLUME V, PAGES 54 TO 68). DURING THIS DISCUSSION, ECUADOR AND MADAGASKAR TOOK THE TERM "PEACEFUL PURPOSES" AS A BASIS TO DEMAND THE DEMILITARIZATION AND DENUCLEARIZATION OF THE AREA OF THE SEA; IRAQ DEMANDED THE ESTABLISHMENT OF DENUCLEARIZED AND WIDELY DEMILITARIZED ZONES BY THE

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CONFERENCE ON THE LAW OF THE SEA. THE OTHER STATES DEMANDED, ALTHOUGH WITH VARYING EMPHASIS, EITHER A DISCONTINUATION OF THE DISCUSSION BY THE CONFERENCE OR A DISCUSSION OF THE TERM AND QUESTIONS ASSOCIATED WITH IT WHICH WILL NOT GO BEYOND THE SCOPE OF THE NEGOTIATING TEXT NOW AVAILABLE (ESPECIALLY THE USA, SOVIET UNION, ROMANIA, BULGARIA, CUBA, MALTA, PEROU, PAKISTAN, TUNESIA). SOME STATES (USA, PHILIPPINES) EXPRESSLY STATED THAT THE TERM "PEACEFUL PURPOSES" DOES NOT EXCLUDE MILITARY ACTIVITIES.

4. IN OUR VIEW, THE TERM "PEACEFUL PURPOSES" SHOULD BE INTERPRETED AS FOLLOWS: ADMISSIBILITY OF USES OF THE SEA WHICH, NO MATTER IF OF CIVIL OR MILITARY NATURE, WILL BE IN KEEPING WITH THE CHARTER OF THE UNITED NATIONS AND WITH THE PRINCIPLE OF THE INTERNATIONAL LAW OF THE RIGHT OF INDIVIDUAL AND COLLECTIVE SELF-DEFENCE. IT IS NOT CONCLUSIVE FROM THE ORIGIN OF THE TERM NOR FROM ITS DISCUSSION AT THE 4TH SESSION THAT THE MEANING OF THE CORRESPONDING PROVISIONS OF THE NEGOTIATING TEXT IS TO DEMILITARIZE ZONES OF THE SEA OR TO LIMIT THE USES OF THE SEAS TO NON-MILITARY USES. LANGUAGE USAGE DISTINGUISHES - ALSO IN RUSSIAN - BETWEEN "PEACEFUL" AND

"MILITARY". THE NEGOTIATING TEXT IS ALSO BASED ON THE CONCEPTION OF THE ADMISSIBILITY OF MILITARY USES OF THE SEA (VIDE ICNT ARTICLES 29 TO 31, ARTICLE 95 - WARSHIPS -, ARTICLE 111 - HOT PURSUIT BY WARSHIPS, ARTICLE 237 - APPLICABILITY TO WARSHIPS OF THE PROVISIONS OF THE CONVENTION REGARDING POLLUTION OF THE MARINE ENVIRONMENT, ARTICLE 297 - OPTIONAL EXCEPTION FROM JUSTICIABILITY OF MILITARY ACTIVITIES).

5. THE SOVIET UNION WILL IN ALL PROBABILITY ALSO OPPOSE AN INTERPRETATION OF THE TERM WHICH MIGHT RESULT IN A

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C O N F I D E N T I A L SECTION 02 OF 02 NATO 07527

RESTRICTION OF THE FREEDOM OF MILITARY MOVEMENTS ON THE WORLD SEAS ALSO TO ITS DETRIMENT.

6. HOWEVER, THE TERM "PEACEFUL PURPOSES" IS NOT CLEARLY DEFINED. IT CAN THEREFORE NOT BE COMPLETELY EXCLUDED THAT ATTEMPTS TOWARDS AN INTERPRETATION RUNNING COUNTER TO WESTERN INTERESTS WILL BE MADE AT THE 7TH SESSION. THE FEDERAL REPUBLIC OF GERMANY DOES NOT AT ALL INTEND TO STIR UP A DISCUSSION ABOUT THE TERM "PEACEFUL PURPOSES" AT THE CONFERENCE ON THE LAW OF THE SEA.

7. WE WOULD APPRECIATE IT TO LEARN HOW OUR ALLIES INTERPRET THE TERM "PEACEFUL PURPOSES" AND HOW THEY ASSESS THE POSSIBILITY THAT THE TERM MAY LEAD TO A CONCRETE RESTRICTION OF MILITARY ACTIVITIES ON AND BELOW THE SEA.
END TEXT. PEREZ

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